

Chapter 15

Public Safety Noncontributory Retirement Act

Part 1

General Provisions

49-15-101 Title.

This chapter is known as the "Public Safety Noncontributory Retirement Act."

Renumbered and Amended by Chapter 250, 2002 General Session

49-15-102 Definitions.

As used in this chapter:

- (1)
 - (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.
 - (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.
 - (c) "Compensation" does not include:
 - (i) overtime;
 - (ii) sick pay incentives;
 - (iii) retirement pay incentives;
 - (iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;
 - (v) a lump-sum payment or special payment covering accumulated leave; and
 - (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.
 - (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).
- (2) "Dispatcher" means the same as that term is defined in Section 53-6-102.
- (3) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(a), (b), and (c).
 - (a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.
 - (b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:
 - (i) the public safety service employee has transferred from another agency; or
 - (ii) the public safety service employee has been promoted to a new position.
 - (c) The annual compensation used to calculate final average salary shall be based on:

- (i) a calendar year for a member employed by a participating employer that is not an educational institution; or
 - (ii) a contract year for a member employed by an educational institution.
- (4)
 - (a) "Line-of-duty death" means a death resulting from:
 - (i) external force, violence, or disease occasioned by an act of duty as a public safety service employee; or
 - (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service employee.
 - (b) "Line-of-duty death" does not include a death that:
 - (i) occurs during an activity that is required as an act of duty as a public safety service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;
 - (ii) occurs during the commission of a crime committed by the employee;
 - (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or
 - (iv) occurs in a manner other than as described in Subsection (4)(a).
- (5) "Participating employer" means an employer which meets the participation requirements of Section 49-15-201.
- (6)
 - (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:
 - (i) law enforcement officer in accordance with Section 53-13-103;
 - (ii) correctional officer in accordance with Section 53-13-104;
 - (iii) special function officer approved in accordance with Sections 49-15-201 and 53-13-105;
 - (iv) dispatcher who is certified in accordance with Section 53-6-303; or
 - (v) full-time member of the Board of Pardons and Parole created under Section 77-27-2.
 - (b) Except as provided under Subsections (6)(a)(iv) and (v), "public safety service" also requires that in the course of employment the employee's life or personal safety is at risk.
- (7) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.
- (8)
 - (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.
 - (b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.
- (9) "System" means the Public Safety Noncontributory Retirement System created under this chapter.
- (10) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a public safety service employee was employed by a participating employer, including time the public safety service employee was absent in the service of the United States government on military duty.

Amended by Chapter 227, 2016 General Session

49-15-103 Creation of system.

There is created for members performing public safety service and who are employed by a participating employer the "Public Safety Noncontributory Retirement System."

Renumbered and Amended by Chapter 250, 2002 General Session

49-15-104 Creation of trust fund.

- (1) There is created the "Public Safety Noncontributory Retirement Trust Fund" for the purpose of paying the benefits and the costs of administering this system.
- (2) The fund shall consist of a number of individual trust accounts created as needed to receive the money and assets transferred into them from the respective terminated systems, all money paid into them, including interest, in accordance with this chapter, whether in the form of cash, securities, or other assets, and of all money received from any other source.
- (3) Custody, management, and investment of the fund shall be governed by Chapter 11, Utah State Retirement Systems Administration.

Renumbered and Amended by Chapter 250, 2002 General Session

Part 2 Membership Eligibility

49-15-201 System membership -- Eligibility.

- (1)
 - (a) A public safety service employee employed by the state after July 1, 1989, but before July 1, 2011, is eligible for service credit in this system.
 - (b) A public safety service employee employed by the state prior to July 1, 1989, may either elect to receive service credit in this system or continue to receive service credit under the system established under Chapter 14, Public Safety Contributory Retirement Act, by following the procedures established by the board under this chapter.
- (2)
 - (a) Public safety service employees of a participating employer other than the state that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System shall be eligible only for service credit in that system.
 - (b)
 - (i) A participating employer other than the state that elected on or before July 1, 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety service employee to elect to participate in either this system or the Public Safety Contributory Retirement System.
 - (ii) Except as expressly allowed by this title, the election of the public safety service employee is final and may not be changed.
 - (c) A public safety service employee hired by a participating employer other than the state after July 1, 1989, but before July 1, 2011, shall become a member in this system.
 - (d) A public safety service employee of a participating employer other than the state who began participation in this system after July 1, 1989, but before July 1, 2011, is only eligible for service credit in this system.

- (e) A person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.
- (3)
 - (a)
 - (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.
 - (ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.
 - (b)
 - (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.
 - (ii) The office may request documentation to verify the appropriateness of the transfer.
- (4) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.
- (5)
 - (a)
 - (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.
 - (ii) The office may require documentation to justify the inclusion of any position under this system.
 - (b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.
 - (c)
 - (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.
 - (ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.
 - (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.
 - (iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:
 - (A) the participating employer covered other similarly situated positions under this system during the time period in question; and
 - (B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.
- (6) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.
- (7) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.
- (8) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of

- public safety service employees shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.
- (9) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:
- (a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and
 - (b) the employee:
 - (i) remains employed by the Department of Corrections;
 - (ii) meets the eligibility requirements of this system;
 - (iii) was hired into a position covered by this system prior to July 1, 2015; and
 - (iv) has not had a break in service on or after July 1, 2015.
- (10) Any employee who is reassigned to the Department of Technology Services or to the Department of Human Resource Management, and who was a member in this system, shall be entitled to remain a member in this system.
- (11)
- (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:
 - (i) except for a dispatcher, place the employee's life or personal safety at risk; and
 - (ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.
 - (b) If a position satisfies the requirements of Subsection (11)(a), the office and Peace Officer Standards and Training Council shall consider whether the position requires the employee to:
 - (i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
 - (ii) perform duties that consist primarily of providing community protection; and
 - (iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.
- (12) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (11) in making its recommendation.
- (13) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.
- (14) Except as provided under Subsection (15), if a participating employer's public safety service employees are not covered by this system or under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.
- (15)
- (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (14), may elect to remain in the public safety service employee's current retirement system.
 - (b) The public safety service employee's election to remain in the current retirement system under Subsection (15)(a):
 - (i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;
 - (ii) shall be documented by written notice to the participating employer; and
 - (iii) is irrevocable.

(16)

(a) Subject to Subsection (17), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover its dispatchers under this system.

(b) A participating employer's election to cover its dispatchers under this system under Subsection (16)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (16)(b), is not eligible for service credit in this system.

(17) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Amended by Chapter 227, 2016 General Session

49-15-202 Participation of employers -- Requirements -- Admission -- Full participation in system -- Supplemental programs authorized.

(1) An employer that employs public safety service employees and is required by Section 49-12-202 or 49-13-202 to be a participating employer in the Public Employees' Contributory Retirement System or the Public Employees' Noncontributory Retirement System shall cover all its public safety service employees under one of the following systems or plans:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act; or

(e) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(2) An employer that covers its public safety employees under Subsection (1)(d) is a participating employer in this system.

(3) If a participating employer under Subsection (1) covers any of its public safety service employees under the Public Safety Contributory Retirement System or the Public Safety Noncontributory Retirement System, that participating employer shall cover all of its public safety service employees under one of those systems, except for a public safety service employee initially entering employment with a participating employer beginning on or after July 1, 2011.

(4)

(a) Until June 30, 2011, an employer that is not participating in this system may by resolution of its governing body apply for coverage of its public safety service employees by this system.

(b) Upon approval of the board, the employer shall become a participating employer in this system subject to this title.

(5)

(a) If a participating employer purchases service credit on behalf of employees for service rendered prior to the participating employer's admission to this system, the service credit must be purchased in a nondiscriminatory manner on behalf of all current and former employees who were eligible for service credit at the time service was rendered.

- (b) For a purchase made under this Subsection (5), an employee is not required to:
 - (i) have at least four years of service credit before the purchase can be made; or
 - (ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.
- (6) A participating employer may not withdraw from this system.
- (7) In addition to their participation in the system, participating employers may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

Amended by Chapter 15, 2014 General Session

49-15-203 Exemption of certain employees from coverage.

- (1) A public safety service employee is excluded from coverage under this system if the employee:
 - (a) is serving:
 - (i) as the Commissioner of Public Safety;
 - (ii) as the executive director of the Department of Corrections; or
 - (iii) as the elected or appointed sheriff or chief of police of a public safety organization; and
 - (b) files a formal written request seeking the exemption.
- (2) Except as provided in Subsection (3), the public safety service employee may not continue employment with the same participating employer and receive an allowance from the office based on public safety service at the same time.
- (3)
 - (a) The Commissioner of Public Safety, an elected sheriff, or an appointed chief of police who is eligible to retire under Section 49-15-401 may until July 1, 2010:
 - (i) retire from this system and receive an allowance;
 - (ii) continue in the elected or appointed position; and
 - (iii) file for the exemption under Subsection (1).
 - (b) A person who makes an election under Subsection (3)(a) may continue under the terms of the election.

Amended by Chapter 298, 2012 General Session

49-15-204 Conversion to system -- Time schedule.

The following laws govern conversion to the Public Safety Noncontributory Retirement System:

- (1) For an employee governed by Subsection 49-15-201(1)(a), the election to participate in this system shall be made within six months of July 1, 1989.
- (2)
 - (a)
 - (i) For an employer governed by Subsection 49-15-201(2)(a), the election to participate in this system shall be made within six months of July 1, 1989.
 - (ii) The employer shall indicate whether or not it elects to participate by enacting a resolution or ordinance to that effect.
 - (iii) Prior to the enactment of the resolution or ordinance, a hearing shall be held by the employer, at which all public safety service employees of the employer shall be given an opportunity to be heard on the question of participating in this system.
 - (iv) Notice of the hearing shall be mailed to all public safety service employees within 30 days of the hearing and shall contain the time, place, and purpose of the hearing.

- (b) A public safety service employee of an employer, prior to its election to participate, has six months from the date the employer elects to participate in which to elect to become eligible for service credit in this system.
- (3)
 - (a) Subsections (1) and (2) shall be used to provide a time period of conversion to the Public Safety Noncontributory Retirement System beginning July 1, 1998, and ending December 31, 1998.
 - (b) A person converting to the system during this time period is subject to all the rights, limitations, terms, and conditions of Chapter 15, Public Safety Noncontributory Retirement Act.
- (4) Subsections (1) and (2) shall be used to provide a time period for an appointed chief of police to convert to the Public Safety Noncontributory Retirement System beginning July 1, 2002, and ending December 31, 2002. A chief of police converting to the system during this time period shall be subject to all the rights, limitations, terms, and conditions of Chapter 15, Public Safety Noncontributory Retirement Act, including an employer's election under Subsection (2).
- (5)
 - (a) Subsections (1) and (2) shall be used to provide a time period of conversion to the Public Safety Noncontributory Retirement System beginning July 1, 2007, and ending December 31, 2007.
 - (b) A person converting to the system during this time period is subject to all the rights, limitations, terms, and conditions of Chapter 15, Public Safety Noncontributory Retirement Act.
- (6)
 - (a) Subsections (1) and (2) shall be used to provide a time period of conversion to the Public Safety Noncontributory Retirement System beginning July 1, 2014, and ending December 31, 2014.
 - (b) A person converting to the system during this time period is subject to all the rights, limitations, terms, and conditions of Chapter 15, Public Safety Noncontributory Retirement Act.

Amended by Chapter 133, 2014 General Session

Part 3

Contributions

49-15-301 Contributions -- Two divisions -- Subdivisions.

- (1) Participating employers shall pay the certified contribution rates to the office to maintain this system on a financially and actuarially sound basis.
- (2) For purposes of determining contribution rates, this system is divided into two divisions according to Social Security coverage:
 - (a) members of this system with on-the-job Social Security coverage are Division A; and
 - (b) members of this system without on-the-job Social Security coverage are in Division B.
- (3) In addition to the divisions under Subsection (2) and for the purposes of determining contribution rates, each division under Subsection (2) is further divided as follows:
 - (a) members of this system with an annual cost-of-living adjustment under Subsection 49-15-403(2)(b) are in Divisions A1 and B1; and

- (b) members of this system with an annual cost-of-living adjustment under Subsection 49-15-403(2)(a) are in Divisions A2 and B2.
- (4) Contribution rates for a participating employer may be different than for other participating employers based on the participating employer's current funding status and actuarial experience.

Amended by Chapter 227, 2008 General Session

Part 4

Defined Benefit

49-15-401 Eligibility for service retirement -- Date of retirement -- Qualifications.

- (1) A member is qualified to receive an allowance from this system when:
 - (a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;
 - (b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and
 - (c) one of the following conditions is met as of the member's retirement date:
 - (i) the member has accrued at least 20 years of service credit;
 - (ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or
 - (iii) the member has accrued at least four years of service and has attained an age of 65 years.
- (2)
 - (a) The member's retirement date:
 - (i) shall be the 1st or the 16th day of the month, as selected by the member;
 - (ii) shall be on or after the date of termination; and
 - (iii) may not be more than 90 days before or after the date the application is received by the office.
 - (b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).
- (3)
 - (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.
 - (b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).
 - (c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Amended by Chapter 310, 2016 General Session

49-15-402 Calculation of retirement benefit.

- (1) A retiree under this system shall receive an allowance equal to:
 - (a) 2.5% of final average monthly salary multiplied by the number of years of service credit, limited to 20 years; plus
 - (b) 2% of final average monthly salary, multiplied by the number of years of service credit in excess of 20 years.
- (2)
 - (a) Except as modified by cost-of-living adjustments and except as provided under Subsection (2)(b), an allowance under this system may not exceed 70% of a retiree's final average monthly salary.
 - (b) The allowance limitation under Subsection (2)(a) does not apply to a member who initially retires on or after July 1, 2010.

Amended by Chapter 264, 2010 General Session

49-15-403 Annual cost-of-living adjustment.

- (1) The office shall make an annual cost-of-living adjustment to:
 - (a) an original allowance paid under Section 49-15-402 and Part 5, Death Benefit, of this chapter if the allowance has been paid for at least one year; and
 - (b) an original payment made to an alternate payee under a domestic relations order if the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.
- (2)
 - (a) Unless Subsection (2)(b) applies, the original allowance shall be increased by the annual increase in the Consumer Price Index up to a maximum of 2.5%.
 - (b) If the participating employer has made an election under Subsection (5), and in lieu of the annual increase under Subsection (2)(a), the original allowance shall be increased by the annual increase in the Consumer Price Index up to a maximum of 4%.
 - (c) Annual increases in the Consumer Price Index in excess of the applicable maximum annual increase under this Subsection (2), shall be accumulated and used in subsequent adjustments when the annual increase in the Consumer Price Index is less than the applicable maximum annual increase under this Subsection (2).
- (3) The Consumer Price Index used in calculating adjustments shall be a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.
- (4) The cost-of-living adjustment made under this section may not decrease the allowance.
- (5)
 - (a) A participating employer may make a one-time election to provide the annual cost-of-living adjustment under Subsection (2)(b), in lieu of the annual cost-of-living adjustment under Subsection (2)(a), for the participating employer's current and future retirees.
 - (b) A participating employer shall make the election under this Subsection (5) prior to December 1, 2012.
 - (c) The participating employer shall indicate whether or not it elects to participate in this benefit by enacting a resolution or ordinance to that effect and making an application to the office.
 - (d) The effective date for the annual cost-of-living adjustment under Subsection (2)(b) is January 1 of the year following an election under Subsection (5)(a).
 - (e) Notwithstanding the election provided under this section, the state, as a participating employer, shall provide the annual cost-of-living adjustment under Subsection (2)(b) to its eligible employees and retirees effective on January 1, 2009.
- (6)

- (a) To be eligible for the annual cost-of-living adjustment under Subsection (2)(b), a retiring employee shall earn the final 72 months of service credit prior to initial retirement:
 - (i) as an employee of a participating employer who:
 - (A) has made the election under Subsection (5)(a); or
 - (B) is included under Subsection (5)(e); and
 - (ii) in a covered position under Title 49, Chapter 14, Public Safety Contributory Retirement Act or under Title 49, Chapter 15, Public Safety Noncontributory Retirement Act.
- (b) The annual cost-of-living adjustment under Subsection (2)(b) may not be paid to a retiree who is not eligible under this Subsection (6).
- (7) An allowance adjustment made under Subsections (2)(b) and (5) may not be paid prior to the effective date of the enhanced cost-of-living adjustment for the participating employer.
- (8) The board may adopt rules for:
 - (a) the administration of the election provided under Subsection (5); and
 - (b) the effective date of the enhanced cost-of-living adjustment for participating employers.

Amended by Chapter 101, 2009 General Session

Amended by Chapter 221, 2009 General Session

Part 5

Death Benefit

49-15-501 Death of active member in Division A -- Payment of benefits.

- (1) If an active member of this system enrolled in Division A under Section 49-15-301 dies, benefits are payable as follows:
 - (a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:
 - (i) If the member has accrued less than 20 years of public safety service credit, the surviving spouse shall receive a lump sum equal to six months of the active member's final average salary and an allowance equal to 30% of the member's final average monthly salary.
 - (ii) If the member has accrued 20 or more years of public safety service credit, the member shall be considered to have retired with an allowance calculated under Section 49-15-402 and the surviving spouse shall receive the death benefit payable to a surviving spouse under Section 49-15-504.
 - (b) If the death is not classified as a line-of-duty death by the office, benefits are payable as follows:
 - (i) If the member has accrued less than 10 years of public safety service credit, the beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions, whichever is greater.
 - (ii) If the member has accrued 10 or more years, but less than 20 years of public safety service credit at the time of death, the surviving spouse shall receive the sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.
 - (iii) If the member has accrued 20 or more years of public safety service credit, the benefit shall be calculated as provided in Subsection (1)(a)(ii).
- (2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor children under Division A.

- (3) If a benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contribution shall be paid to the beneficiary.
- (4)
 - (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.
 - (b) The allowance shall begin on the first day of the month following the month in which the:
 - (i) member died, if the application is received by the office within 90 days of the member's death; or
 - (ii) application is received by the office, if the application is received by the office more than 90 days after the member's death.

Amended by Chapter 84, 2016 General Session

49-15-502 Death of active member in Division B -- Payment of benefits.

- (1) If an active member of this system enrolled in Division B under Section 49-15-301 dies, benefits are payable as follows:
 - (a) If the death is classified by the office as a line-of-duty death, the surviving spouse shall receive:
 - (i) a lump sum equal to six months of the active member's final average salary; and
 - (ii) an allowance equal to 37.5% of the member's final average monthly salary.
 - (b) If the death is not classified by the office as a line-of-duty death, and the member has accrued two or more years of public safety service credit at the time of death, the death is considered line-of-duty and the surviving spouse shall receive:
 - (i) a lump sum of \$1,500; and
 - (ii) an allowance as provided under Subsection (1)(a)(ii).
 - (c) If the death is not classified by the office as a line-of-duty death, and the member has accrued less than two years of public safety service credit at the time of death, the surviving spouse shall receive a refund of the member's member contributions, plus 50% of the member's most recent 12 months' compensation.
 - (d)
 - (i) If the member has accrued two or more years of public safety service credit at the time of death, each of the member's unmarried children to age 18 or dependent unmarried children with a mental or physical disability shall receive an allowance of \$50.
 - (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or as otherwise provided under Section 49-11-609 or 49-11-610.
- (2) If the member dies and there is no surviving spouse, any amounts that would have been the surviving spouse's benefit shall be prorated and paid to each of the member's unmarried children to age 18.
- (3) If a benefit is not distributed under Subsection (1) or (2), and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.
- (4) The combined payments to beneficiaries of any member under this section may not exceed 75% of the member's final average monthly salary.
- (5)
 - (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.
 - (b) The allowance shall begin on the first day of the month:
 - (i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

- (ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Amended by Chapter 84, 2016 General Session

49-15-503 Benefits payable upon death of inactive member.

- (1) If an inactive member who has less than 20 years of public safety service credit dies, the surviving spouse, or, if there is no surviving spouse, the member's minor children shall receive a refund of the member's member contributions or \$500, whichever is greater.
- (2)
 - (a) If an inactive member with 20 or more years of public safety service credit dies, the surviving spouse shall receive an allowance in an amount of 50% of the amount the member would have received had retirement occurred on the first of the month following the month in which the death occurred.
 - (b) This allowance shall be based on years of service credit and final average monthly salary under Section 49-15-402, reduced actuarially from age 50 to the age of the member at the time of death if the member is under 50 years of age at the time of death.
- (3)
 - (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.
 - (b) The allowance shall begin on the first day of the month:
 - (i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or
 - (ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Amended by Chapter 84, 2016 General Session

49-15-504 Benefits payable upon death of retired member -- Enhanced benefit election -- Rulemaking.

- (1) If a retiree who retired under either Division A or Division B dies, the retiree's surviving spouse shall receive an allowance equal to 65% of the allowance that was being paid to the retiree at the time of death.
- (2)
 - (a) Notwithstanding the amount of the allowance under Subsection (1), at the time of retirement, a retiree may elect to increase the spousal death benefit to 75% of an allowance computed in accordance with Section 49-15-402.
 - (b) If an election is made under Subsection (2)(a), the member's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.
- (3)
 - (a) For a retiree whose retirement date is before July 1, 2009, the office shall provide an optional spousal death benefit to bring the total spousal death benefit up to 75% of an allowance computed in accordance with Section 49-15-402.
 - (b) A retiree may elect to purchase the optional spousal death benefit until July 1, 2010.
 - (c) If an election is made under Subsection (3)(b), the retiree's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.

- (d) The board shall make rules to administer the death benefit under this Subsection (3).
- (4) If the retiree retired solely under Division B and dies leaving unmarried children under the age of 18 or dependent unmarried children with a mental or physical disability, the children shall qualify for a benefit as prescribed under Subsection 49-15-502(1)(d).
- (5)
 - (a) A beneficiary who qualifies for a monthly benefit under this section shall apply in writing to the office.
 - (b) The allowance shall begin on the first day of the month following the month in which the:
 - (i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or
 - (ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Amended by Chapter 84, 2016 General Session

49-15-505 Benefits for surviving spouse under Division A or Division B.

The surviving spouse, if eligible, shall receive a benefit computed under either Division A or Division B, whichever provides the larger benefit, but may not receive a benefit under both divisions if it would result in a duplicate benefit.

Amended by Chapter 84, 2016 General Session

49-15-506 Benefits payable upon death of active or inactive member without spouse or minor children.

If an active or inactive member dies and at the time of death the member does not have a surviving spouse or minor children, the benefit payable to a designated beneficiary is a refund of the member's member contributions or \$500, whichever is larger.

Amended by Chapter 84, 2016 General Session

49-15-507 Surviving spouse includes certain former spouses -- Benefit calculation for former spouse.

- (1) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.
- (2) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Enacted by Chapter 84, 2016 General Session

**Part 6
Disability**

49-15-601 Long-term disability coverage.

Each participating employer shall cover its public safety employees under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program.

Enacted by Chapter 240, 2003 General Session